



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 491

131st General Assembly  
(As Introduced)

Rep. Anielski

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## BILL SUMMARY

- Authorizes a dollar-for-dollar nonrefundable commercial activity tax credit for a business located in an active foreign trade zone that spends money to create jobs, provide job training, make capital improvements, or increase production at the business.
- Disallows the credit after December 31, 2021.

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## CONTENT AND OPERATION

### Foreign trade zone business investment credit

The bill authorizes a nonrefundable credit against the commercial activity tax (CAT) for businesses that have one or more facilities located in an active foreign trade zone (FTZ) in Ohio. The credit equals the amount committed by the business during the tax period for any of the following purposes:

- Creating jobs at the FTZ facility;
- Providing training or continuing education – consisting of career enrichment lectures, activities, or self-study programs tailored to an employee's current job, job aspirations, or industry – to employees working at the FTZ facility;
- Making capital improvements to the FTZ facility including, specifically, renewable energy resources (i.e., equipment used to harness solar, wind, hydroelectric, geothermal, biomass, methane, or waste energy);

- Undertaking initiatives to increase exports to foreign nations of goods or services produced at the FTZ facility.<sup>1</sup>

The bill limits the amount of the credit to the CAT due on the business's gross receipts derived from the FTZ facility. Expenditures exceeding the tax due cannot be claimed as a credit in future tax periods. The credit is not available to businesses that fail to maintain operations at the FTZ facility for the entire tax period.<sup>2</sup>

The bill requires businesses claiming the credit to file records of the commitments and expenditures upon which the credit is based with the Tax Commissioner. If the Commissioner and the Director of Development Services determine that a business has failed to comply with the reporting requirement, the Commissioner may make an assessment against the business proportionate to the compliance failure. The assessment may include applicable penalty and interest.<sup>3</sup>

## **Background on FTZs**

FTZs are areas designated by the Foreign-Trade Zones Board (FTZ Board), pursuant to the federal law, for the purpose of storing, exhibiting, assembling, manufacturing, and processing foreign and domestic goods.<sup>4</sup> Generally, FTZs are secure areas located near a point of entry to the United States under the protection of U.S. Customs and Border Protection (CBP). Subject to federal regulations, goods may be moved in and out of a FTZ without going through the usual CBP entry procedures. Furthermore, payments of duties are not required on foreign merchandise entering a FTZ unless or until the goods formally enter the United States for domestic consumption. At that point, the importer may choose to pay duties at the rate imposed on either the original foreign materials or the finished product (after work performed in the FTZ).<sup>5</sup>

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<sup>1</sup> R.C. 5751.15(B) and 4928.01, not in the bill.

<sup>2</sup> R.C. 5751.15(B) and (C). A tax period is a calendar quarter or calendar year, depending on a company's taxable gross receipts.

<sup>3</sup> R.C. 5751.15(C) and (D).

<sup>4</sup> *Foreign-Trade Zones Act of 1934*, 19 U.S.C. 81a-81u.

<sup>5</sup> "About Foreign-Trade Zones and Contact Info," U.S. Customs and Border Protection, available at: <https://www.cbp.gov/border-security/ports-entry/cargo-security/cargo-control/foreign-trade-zones/about> (last accessed May 12, 2016).

According to the 2014 Annual Report compiled by the FTZ Board, there are nine FTZs located in Ohio.<sup>6</sup>

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## HISTORY

ACTION	DATE
Introduced	03-16-16

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<sup>6</sup> 76th Annual Report of the Foreign Trade Zones Board to the Congress of the United States, 2014, pg. 100-103, available at: <http://enforcement.trade.gov/ftzpage/annualreport/ar-2014.pdf> (last accessed May 12, 2016).

